Anthony Antonelli, Acuitas 9/24/15

# MIDWEST ENERGY NEWS

**NEWS**

## Indiana watchdogs: 'Our fears are coming true' on utilities and efficiency

**WRITTEN BY**
Kari Lydersen 5 hours ago

More than a year after Indiana lawmakers repealed the state's energy efficiency standard, utilities are scaling back their efforts while – advocates argue – seeking to overcharge ratepayers for their plans.

Last year Indiana passed legislation eliminating the state's Energy Efficiency Resource Standard (EERS) and also killing its Energizing Indiana program, which had led to substantial energy efficiency investments and energy savings.

To replace the EERS, the legislature passed Senate Bill 412, calling for utilities to file energy efficiency and demand side management (DSM) plans with the state utility commission every three years.

Now Duke Energy Indiana and NIPSCO (Northern Indiana Public Service Company) have filed these plans for 2016-2018 with the Indiana Utility Regulatory Commission. And the Citizens Action Coalition of Indiana (CAC) watchdog organization says the proposals show just how inadequate the new requirement is, especially compared to the sizable efficiency improvements that were being made before.

For example, NIPSCO's proposed energy savings in 2018 are 114 GWh. Under the EERS, they would have had to save 339 GWh. Natalie Mims, an expert witness who testified on behalf of CAC before the utility commission, said that NIPSCO's proposed spending on energy efficiency in 2016-2018 is only 40 percent of its 2014 spending.

"Our fears are coming true or being confirmed," said CAC executive director Kerwin Olson. "The legislation allows the utility companies to establish their own goals. It puts the utilities in the drivers' seat in terms of how much energy efficiency they're going to do.

'It's widely accepted and understood that energy efficiency requires policy to drive the investment.'

"But it's widely accepted and understood that energy efficiency requires policy to drive the investment; that energy efficiency is not in the utility company's best interest and in order to drive utility companies to invest in efficiency you need a little bit of a stick behind it."

Both the CAC and the Indiana Office of Utility Consumer Counsel (OUCC), a governmental agency, are calling on the commission to reject Duke's and NIPSCO's plans and demand they be revamped to include greater energy efficiency and conservation measures.

**Overcharging and opting out**

While the CAC laments how the utilities are not bolstering energy efficiency, testimony filed by the CAC and the OUCC complain that Duke and NIPSCO are also trying to charge ratepayers too much for "lost revenue" that the company expects because of lower demand.

Utilities are allowed to recoup revenue they lose because less energy is purchased after efficiency measures are taken. But the testimony says that the utilities want to charge way too much for such lost revenue, and that their plans are causing many large industrial customers to opt out of the energy efficiency program altogether.

Duke and NIPSCO did not respond to questions or requests for comment for this story.

A group of industrial customers filed testimony in the NIPSCO case charging that the amount NIPSCO is trying to gain through lost revenue "substantially exceeds" the money it would lose due to electricity conservation.

NIPSCO wants to collect $72.7 million in lost revenue, which makes up more than half its DSM program's total budget. Duke's plan proposes to collect $77.6 million in lost revenue for 2016-2018, making up 40 percent of the DSM budget.

The legislation that ultimately ended the EERS started out as a much narrower provision meant to give industrial customers the right to opt out of energy efficiency programs. This remains an option, even though the energy efficiency programs are much less ambitious going forward. Opting out can free industrial customers from paying the lost revenue charges that they say are way too high.

The CAC's testimony argues that while utilities are required to give industrial users the choice of opting out, they should try harder to convince those users to stay involved in the program.

"The Company should modify the language to focus on the benefits the customer is declining when it opts out of efficiency programs," said Mims in her NIPSCO testimony. "Currently, the language focuses on the ease with which the customer can opt out of the program."

Almost half of the industrial customers eligible for opting out have done so, according to the CAC.

'The utility feels like it is upon them to make opt-out as easy as possible.'
"The opt out forms the utilities are using are just pathetic," said CAC attorney Jennifer Washburn. "We joke that the industrial customer just has to whisper the word 'opt-out' and they're done. The utility feels like it is upon them to make opt-out as easy as possible. And good luck getting any big guys to participate in any of these programs with lost revenues [they must pay the utility] so out of control."

OUCC utility analyst Edward Rutter's testimony indicated that the amount Duke seeks to recover from ratepayers as compensation for lost revenue is disingenuous. He noted that if Duke had to build a new power plant to serve customers instead of simply reducing electricity demand, it would have massive costs up front with slow recovery and the risk that the plant would not be financially viable.

"Duke faces no disincentive," to invest in reducing demand, Rutter's testimony says. "Instead, the opposite is true."

**Lack of data**

Both the OUCC and CAC comments criticize Duke for not providing data to show how much revenue they will be losing because of energy efficiency improvements.

Among other things, they say the company has a seriously inflated number for how much it will spend on "energy measurement and verification," or EM&V, for its demand side management programs. Such measurement and evaluation usually costs about five percent of the total program cost, Olson said.

In testimony for the OUCC in the Duke case, utility analyst April Paronish noted that Duke's former CEO, James Rogers, chaired a public-private initiative that recommended EM&V should make up three to six percent of the overall DSM costs.

Duke proposes instead to spend about nine percent of its total DSM program costs, or $9 million a year, on EM&V.

"EM&V is incredibly important –we strongly support it," said Olson. "But Duke's budget for EM&V is outrageous. If it costs that much to evaluate a program, something is wrong. Either the number is inflated or there's an inherent problem in the design of program. Either way, that budget is absurd."

Paronish's testimony notes that Duke proposes to reduce the rebates it pays consumers for replacing inefficient appliances, from $50 to less than $30, with no explanation.

"There is no information explaining the decrease, how many customers are expected to participate or why [Duke] believes this new amount will be sufficient to motivate participation after providing $50 rebates," Paronish testified.

Olson said that CAC has been fighting for data that sheds light on Duke's proposals, through Freedom of Information Act requests. But citizens shouldn't have to go to that length to get data the company should have included in its public filings before the utility commission, Olson said.

Rutter testified that if the company wants to recoup costs for energy efficiency programs and incentives, it should have to provide a cost-benefit analysis of what it is proposing.

'Is it reasonable to award performance incentives to a utility that sets it own savings targets?' Rutter also questioned the concept of Duke receiving performance incentives for meeting the goals that it sets for itself. Performance incentives are a standard way to ensure that utilities meet energy efficiency targets, but those goals are less meaningful when set by the utility itself.

"Is it reasonable for the Commission to award performance incentives to a utility that sets it own savings targets?" Rutter asked.

In the CAC's testimony regarding NIPSCO, Mims notes that among other problems, NIPSCO wrongly quantified the value of supply side and demand side resources in the same way, which does a disservice to energy efficiency or other demand reduction programs.

"A single program targeting residential lighting, for example, may not defer or displace a generating unit, where a comprehensive portfolio of programs including residential lighting would," Mims testified.

**Other demands**

The CAC's testimony also makes other requests of Duke and NIPSCO, in part to restore programs that were included in Energizing Indiana.

The CAC asks that the utility make it explicit that single-family manufactured homes qualify for energy efficiency programs. The CAC asks that Duke and NIPSCO offer a $1,000 rebate for people buying manufactured homes certified as efficient, and that real estate agents get a $200 bonus for making such sales.

"Given the amount of Indiana's housing stock that is comprised of manufactured homes and the use of manufactured homes as affordable housing, it is critical that NIPSCO design successful programs to reach this market," Mims said in her testimony.

The CAC also asks Duke and NIPSCO to include incentives for efficiency in new home construction, since some important efficiency measures like quality insulation are typically only done during construction.

The CAC also asks Duke and NIPSCO to revive a schools program that previously existed, known as School Audit and Direct Install (SADI) that includes LED exit signs, occupancy sensors for power strips and whole classrooms, vending machine timers and other energy-saving measures. In 2014 that program saved 547 net MWh.

**A silver lining?**

When Energizing Indiana was still in place, utilities were required to enlist independent auditors to develop action plans for improving energy efficiency. The CAC's testimony includes charts showing how much lower the utilities' proposed energy efficiency goals are compared with the action plans that had been formulated under the old rules.

For example, Duke's proposed goal calls for saving 196 GWh, or 0.6 percent of sales, in 2018. The action plan had called for saving 445 GWh, at 1.6 percent of sales. Those action plan numbers are adapted to reflect the industrial customers opting out of the program; with fewer opt-outs, the energy savings could be even greater.

For 2016-2018, Duke's proposed goal for low-income energy efficiency programs is 9.7 gross GWh, whereas the action plan called for 50.8 gross GWh. For appliance recycling, the plan was 40 GWh compared to just 2 GWh in the proposed goal.

Washburn noted that the Energizing Indiana program was developed in part by the utility regulatory commission, and she is hopeful that the commission could still try to hold utilities to their previous action plans, which can be even more ambitious than the now-defunct EERS.

"All that's required under Senate Bill 412 is that [the proposed goal] has to be reasonably achievable," and in keeping with the company's integrated resource plan, she said. "We're saying what's reasonably achievable is what the action plan said they could do.

"We hope the commission will be proud enough [of what they had accomplished before] to make lemonade out of these horrible lemons we were given," Washburn continued. "The silver lining could be if the commission says they have to follow these independent action plans, we might get something that looks really good."